

COMMITTEE ON LEGISLATIVE RESEARCH  
OVERSIGHT DIVISION

**FISCAL NOTE**

L.R. No.: 4135-15  
Bill No.: Truly Agreed To and Finally Passed CCS#3 HCS#2 SB 844  
Subject: Administration, Office of; Campaign Finance; Contracts and Contractors;  
Elections; Public Officers; Secretary of State  
Type: Original  
Date: June 3, 2010

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Bill Summary: Modifies various purchasing and ethics laws.

**FISCAL SUMMARY**

<b>ESTIMATED NET EFFECT ON GENERAL REVENUE FUND</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	(\$87,226)	(\$104,733)	(\$107,877)
<b>Total Estimated Net Effect on General Revenue Fund</b>	<b>(\$87,226)</b>	<b>(\$104,733)</b>	<b>(\$107,877)</b>

<b>ESTIMATED NET EFFECT ON OTHER STATE FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Total Estimated Net Effect on <u>Other</u> State Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

Numbers within parentheses: ( ) indicate costs or losses.  
This fiscal note contains 14 pages.

<b>ESTIMATED NET EFFECT ON FEDERAL FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Total Estimated Net Effect on <u>All</u> Federal Funds</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

<b>ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
General Revenue	2 FTE	2 FTE	2 FTE
<b>Total Estimated Net Effect on FTE</b>	<b>2 FTE</b>	<b>2 FTE</b>	<b>2 FTE</b>

☐ Estimated Total Net Effect on All funds expected to exceed \$100,000 savings or (cost).

☐ Estimated Net Effect on General Revenue Fund expected to exceed \$100,000 (cost).

<b>ESTIMATED NET EFFECT ON LOCAL FUNDS</b>			
FUND AFFECTED	FY 2011	FY 2012	FY 2013
<b>Local Government</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

## FISCAL ANALYSIS

### ASSUMPTION

#### Section 8.016 Keys to the Dome

Officials from the **Office of Administration (COA) - Commissioner's Office** state that if expanded access is granted to the State Capitol Dome, the state will be liable for any claims if an injured individual sues the state. In the past two (2) years, there have been two incidents where an individual was injured as a result of visitors being allowed access to the dome. In one instance, the injured individual was taken to the emergency room at a local hospital. In the other instance, emergency medical services (EMS) personnel refused to climb the stairway going to the dome because they could not properly transport the individual down the staircase. A Capitol Police officer was able to assist the visitor down the stairs where EMS personnel provided aid.

**COA - Division of General Services, Risk Management (GS/RM)** officials assume there would be an increase in the number of visitors to the Capitol Dome if the proposal is approved. Therefore, the likelihood of an accident or injury increases. While there have been no claims to date, the likelihood of a claim increases and these costs would have to be covered by the state's Legal Expense Fund. For any one person in a single accident or occurrence, the maximum waiver of sovereign immunity for a dangerous condition of property claim would be \$378,814 (for claims occurring in 2009; new figures are not out yet for 2010). For all claims arising out of a single accident or occurrence, the maximum would be \$2,525,423.

**COA - Division of Facilities Management, Design and Construction (FMDC)** officials state increased access to the Capitol Dome area would require the COA to make extensive modifications to the space because access to this area was not designed for heavy traffic. There are more than 300 caged steps and no ventilation system, which could cause problems for anyone with health issues. This creates serious accessibility issues in the case of a medical emergency and medical-related evacuation. In addition, there is no way to get emergency equipment to the upper dome area. The state could incur costs to fix roofs and other structures and there is insufficient protection to visitors above the existing wall surrounding the area.

During FY 08, the FMDC conducted a study to determine the feasibility of access to the Whispering Gallery. The proposal will impact the state's Capital Improvement budget as design and construction costs to the Gallery and Dome are estimated at \$2,590,000. This estimate includes the addition of appropriate heating, ventilation and air conditioning equipment for the space. Required modifications include the design of safe entrances and exists, protection of building electrical components and other safety features, but does not include asbestos abatement or wheelchair accessibility.

ASSUMPTION (continued)

The proposal will also impact FMDC's operating appropriation for the costs associated with heating, cooling, maintenance, and cleaning of the space on an on-going basis. The FMDC is unable to estimate these costs until construction is finalized.

Finally, the COA would incur additional costs to duplicate 197 keys, but these costs could be covered with existing resources.

In summary, providing expanded access to the State Capitol Dome could increase the state's liability in the event of a claim more than \$2.5 million per incidence; design and construction costs to the Whispering Gallery and Dome are estimated at \$2.59 million. There are also other unknown costs associated with the proposal, including asbestos removal, wheelchair access and annual heating, cooling, maintenance and cleaning costs.

**Oversight** assumes the proposal is only mandating the provision of keys to the legislators and, as a result, is not presenting the COA's Legal Expense Fund or design and construction costs.

Section 34.048 and 37.900 Purchasing

Officials at the **Office of Administration** assume no increased administrative costs as a result of this proposal.

Officials at the **Department of Corrections** defers to OA on the purchasing and contract components of this bill. The fiscal effect of potential procurement changes for the DOC are Unknown per each year.

Sections 105.456, 105.463, 105.473, 105.485, 105.955, 105.957, 105.959, 105.961, 105.963, 105.966, 115.364, 130.011, 130.021, 130.026, 130.028, 130.031, 130.041, 130.044, 130.046, 130.057, 130.071, 226.033 and 575.021 Relating to Ethics

Officials at the **Missouri Ethics Commission** assume the proposed legislation would create additional conflict of interest prohibitions, create a listing of all contributions made by a person whose name was submitted to the governor for appointment; require reporting of location for lobbyist group expenditures; modify the definition of lobbyist group expenditures; expand the definition of instances when the Commission can conduct an investigation; prohibit an individual from forming a new committee or serve as deputy treasurer if that individual has not complied with all of the reporting requirements or has not paid any outstanding penalties imposed by the MEC; assess late fees on limited activity reports filed under Chapter 130; implement new language related to Political Party committees and Political Action committees and the contributions made between campaign finance committees; require current statewide office holders, general assembly member and candidates for such offices to report any contribution

ASSUMPTION (continued)

received during the regular legislative session of over \$500 within 48 hours and requiring electronic filing for all campaign finance reports as outlined in Chapter 130.

The implementation of the above responsibilities would require the following additional resources:

Two Business Analysts to conduct the routine work necessary in reviewing and providing oversight for the proposed legislation. The Business Analysts would provide assistance and oversight of the following:

- Reporting contributions made to any candidate or campaign committee for the previous four years by a person whose name was submitted to the Governor for appointment;
- Additional lobbyist reporting requirement for location;
- Additional assistance in the statutory modification of the definition of a lobbyist group expenditure;
- Prohibition of an individual forming a campaign finance committee or serving as deputy treasurer until the individual has filed all outstanding reports and/or paid all fees assessed by the Commission;
- Statutory requirements regarding contributions between campaign finance committees;
- Statutory changes in the definitions of Political Party committee and Political Action committee;
- Requirement for individuals currently holding office as a state representative, senator, governor, lieutenant governor, treasurer, attorney general, secretary of state, or auditor or a candidate of such office to report contributions over \$500 made during the regular legislative session by any contributor to his/her campaign finance committee within 48 hours of receiving the contribution;
- Electronic filing by all campaign finance committees.

This proposal prohibits an individual forming a new committee or serving as a treasurer or deputy treasurer if there are outstanding reports or penalties relating to that individual.

**Oversight** assumes that the once candidates are informed of the new requirements they will comply with the provisions. Due to the limited number of non-compilers, MEC should be able to handle the review of the files with existing staff.

**Oversight** assumes that because of the provisions of this statute dealing with the transfer of funds between committees and the significant penalty that can be assessed for the violation of the statutes, that committees will comply and no penalties will be assessed.

ASSUMPTION (continued)

**Oversight** has reflected in the fiscal note one Research Analyst in FY 2011 for MEC due to the limited increase in duties by the MEC. If MEC experiences a measurable increase in its workload as a direct result of this proposal then it can request additional FTE in future budget requests.

**Oversight** has, for fiscal note purposes only, changed the starting salary for the Business Analyst to that of a Research Analyst to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees over the last six months of FY 2002 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research. Additionally, it is in line with current staff employee job titles and compensation.

Officials at the **Missouri Ethics Commission** assume for every 1,800 late fee notices required to be sent out, the Commission would need one Reporting Specialist. Any increase in late notices below this number, the Commission anticipates it would require hiring temporary help, at approximately \$985, to process the additional number of filings below 1,800. The Commission currently sends out 1,800 late fee notices.

**Oversight** assumes that according to the 2009 Calendar Year At a Glance published by the MEC that the number of late filers notified in 2009 was 463. Since MEC stated they would need a person only if the number of additional filings is above 1,800 Oversight assumes that MEC can absorb the additional fees assessed according to this proposal with existing staff.

Officials at the **Missouri Ethics Commission** assume the need for two Investigator III positions to perform investigative work. The additional investigative work includes the following areas:

- the additional conflict of interest prohibitions in Section 105.456;
- the requirement for a person whose name has been submitted to the governor for appointment to disclose all campaign contributions made to any candidate committee or campaign committee within 30 days of submission of that person's name;
- disclosure of a lobbyist group expenditure location;
- expansion of instances when the MEC can conduct investigations;
- prohibition of an individual forming a committee or serving as deputy treasurer of a committee with outstanding campaign finance reports or outstanding fees assessed by the MEC;
- the statutory provisions related to contributions made between committees
- the statutory provisions related to the definition of Political Party committees;
- reporting requirement by any member of the general assembly or candidate for such office to report any contributions received of over \$500 within 48 hours during the regular

ASSUMPTION (continued)

legislative session; also requiring notices to be sent, answering necessary correspondence and communication and tracking the results;  
reporting requirement by the governor, lieutenant governor, treasurer, attorney general, secretary of state, or auditor or any candidate for such office to report any contributions received of over \$500 within 48 hours during the regular legislative session or any time when legislation from the regular session legislative session awaits gubernatorial action; also requiring notices to be sent, answering necessary correspondence and communication and tracking the results.

**Oversight** assumes the MEC currently investigates complaints and has the management staff necessary to begin handling the potential increase in internal investigations. Oversight has reflected in the fiscal note one Investigator II in FY 2011 for MEC. Oversight assumes MEC would not increase its existing staff unless it can show in future budget requests, an identifiable increase in the number of internal investigations initiated by the Commission which would necessitate the need for additional supervisors.

**Oversight** has, for fiscal note purposes only, changed the starting salary for the Investigator II to correspond to the second step above minimum for comparable positions in the state's merit system pay grid. This decision reflects a study of actual starting salaries for new state employees over the last six months of FY 2002 and policy of the Oversight Subcommittee of the Joint Committee on Legislative Research.

Officials at the **Missouri Ethics Commission** assume the need for one Staff Attorney to conduct the legal work necessary for the following areas:

- the additional conflict of interest prohibitions in Section 105.456;
- the requirement for a person whose name has been submitted to the governor for appointment to disclose all campaign contributions made to any candidate committee or campaign committee within 30 days of submission of that person's name;
- disclosure of a lobbyist group expenditure location;
- expansion of instances when the MEC can conduct investigations;
- prohibition of an individual forming a committee or serving as deputy treasurer of a committee with outstanding campaign finance reports or outstanding fees assessed by the MEC;
- the statutory provisions related to contributions made between committees
- the statutory provisions related to the definition of Political Party committees;
- reporting requirement by any member of the general assembly or candidate for such office to report any contributions received of over \$500 within 48 hours during the regular legislative session; also requiring notices to be sent, answering necessary correspondence

ASSUMPTION (continued)

and communication and tracking the results;  
reporting requirement by the governor, lieutenant governor, treasurer, attorney general, secretary of state, or auditor or any candidate for such office to report any contributions received of over \$500 within 48 hours during the regular legislative session or any time when legislation from the regular session legislative session awaits gubernatorial action; also requiring notices to be sent, answering necessary correspondence and communication and tracking the results.

**Oversight** assumes that according to the 2009 Calendar Year At a Glance published by the MEC that they only had 165 complaint cases last year. 98 of those were dismissed as an unsubstantiated complaint and 6 were closed with a letter. Therefore, only 61 would have required a hearing. Oversight assumes MEC would not need to increase its existing staff unless it can show in future budget requests, an identifiable increase in the number of internal investigations initiated by the Commission which would necessitate the need for additional staff.

Officials at the **Office of the Attorney General (AGO)** assume the number of referrals from the Ethics Commission, if any, would be small and that any potential costs arising from this proposal can be absorbed with existing resources. If there is an increase in cases over time, AGO may seek an additional appropriation to adequately represent the Commission in such matters.

Bill as a Whole

Officials at the **Department of Insurance, Financial Institutions and Professional Registration, Kansas City Board of Election Commission, Missouri Department of Conservation, Office of the Governor, Office of the Lt. Governor, Office of Prosecution Services, Office of the State Auditor, Office of the State Courts Administrator, Office of the State Treasurer, Platte County Board of Election Commission and the St. Louis County Board of Election Commission** assume that there is no fiscal impact from this proposal.

Officials from the **Department of Corrections (DOC)** stated that they could not predict the number of new commitments which could result from the creation of the offense(s) outlined in the proposal. An increase in commitments would depend on the utilization of prosecutors and the actual sentences imposed by the courts. If additional persons were sentenced to the custody of the DOC due to the provisions of this legislation, the DOC would incur a corresponding increase in operational costs either through incarceration (FY 2009 average \$16.04 per inmate, per day or an annual cost of \$5,855) or through supervision provided by the Board of Probation and Parole (FY 2009 average \$3.71 per offender, per day or an annual cost of \$1,354). The following factors contribute to DOC's minimal assumption:



ASSUMPTION (continued)

- DOC assumes the narrow scope of the crime will not encompass a large number of offenders.
- The low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence.
- The probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision through probation or incarceration would result in some additional costs but also considering the potential procurement effects, the fiscal impact for DOC is Unknown per each fiscal year.

**Oversight** assumes that do to the severity of the penalties outlined in this proposal that few individuals will violate the statutes resulting in incarceration.

Officials from the **Office of the Secretary of State (SOS)** state many bills considered by the General Assembly include provisions allowing or requiring agencies to submit rules and regulations to implement the act. The SOS is provided with core funding to handle a certain amount of normal activity resulting from each year's legislative session. The fiscal impact for this fiscal note to the SOS for Administrative Rules is less than \$2,500. The SOS recognizes that this is a small amount and does not expect that additional funding would be required to meet these costs. However, the SOS also recognizes that many such bills may be passed by the General Assembly in a given year and that collectively the costs may be in excess of what the office can sustain with the core budget. Therefore, the SOS reserves the right to request funding for the cost of supporting administrative rules requirements should the need arise based on a review of the finally approved bills signed by the governor.

**Oversight** assumes the SOS could absorb the costs of printing and distributing regulations related to this proposal. If multiple bills pass which require the printing and distribution of regulations at substantial costs, the SOS could request funding through the appropriation process.

No other County or Board of Election Commission responded to **Oversight's** request for fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2011 (10 Mo.)	FY 2012	FY 2013
<b>GENERAL REVENUE</b>			
<u>Cost - MEC</u>			
Personal Service	(\$55,239)	(\$68,275)	(\$70,324)
Fringe Benefits	(\$28,967)	(\$35,803)	(\$36,878)
Expense and Equipment	<u>(\$3,020)</u>	<u>(\$655)</u>	<u>(\$675)</u>
<u>Total Cost - MEC</u>	<u>(\$87,226)</u>	<u>(\$104,733)</u>	<u>(\$107,877)</u>
FTE Change - MEC	2 FTE	2 FTE	2 FTE
 <b>ESTIMATED NET EFFECT ON GENERAL REVENUE</b>	 <b><u>(\$87,226)</u></b>	 <b><u>(\$104,733)</u></b>	 <b><u>(\$107,877)</u></b>
 Estimated Net FTE Change on General Revenue	 2 FTE	 2 FTE	 2 FTE
 <u>FISCAL IMPACT - Local Government</u>	 FY 2011 (10 Mo.)	 FY 2012	 FY 2013
	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>	 <b><u>\$0</u></b>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

This act modifies the law relating to purchasing and ethics.

SECTION 8.106 - The Commissioner of the Office of Administration shall provide each Senator And Representative with a key that accesses the dome of the state capitol.

SECTION 34.048 - In any contract for purchases not subject to competitive bid processes, the Office of Administration shall not prevent any department, office, board, commission, bureau, institution, political subdivision, or any other agency of the state from purchasing supplies from an authorized General Services Administration vendor.

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FISCAL DESCRIPTION (continued)

SECTION 37.900 - Statewide elected officials may request the Office of Administration to determine the lowest and best bidder with respect to purchasing, printing, and services expenditures for which the official has the authority to contract. Upon such request, the Office of Administration shall have 45 days to respond by naming the lowest and best bid.

SECTION 105.456 - A statewide elected official is guilty of the crime of bribery of a public servant if he or she makes offers or promises to confer paid employment to any other statewide elected official in exchange for the legislator's official vote. Those who agree to such an arrangement are guilty of the crime of acceding to corruption.

SECTION 105.463 - Nominees for gubernatorial appointments to a board or commission requiring Senate confirmation shall file a financial interest statement and shall request a list of political contributions from the Ethics Commission. The nominee shall deliver the information to the Senate pro tem prior to confirmation.

SECTION 105.473 - Lobbyists who knowingly omit, conceal, or falsify information in expenditure reports are guilty of a Class A misdemeanor. Lobbyists are required to report expenditures when all members of certain bodies (such as the Senate) are invited in writing. This act stipulates that those bodies may or may not include staff. Statewide officials are included.

SECTIONS 105.955, 105.957, 105.959, 105.961 - With a unanimous vote of the Ethics Commission, the executive director may conduct an independent investigation of an ethics violation without a complaint if there are reasonable grounds to believe that a violation has occurred. The commission shall notify the person under investigation and assign a special investigator. The investigations of the executive director are confidential and the revealing of such information shall be cause for removal or dismissal. Investigations failing to establish reasonable grounds to believe a violation has occurred shall be terminated.

SECTION 105.961 - Currently, within 120 days of receipt of a complaint, the special investigator submits a report to the commission. This act changes that threshold to 90 days.

Determinations that violations have occurred, other than referrals for criminal prosecution, may be appealed de novo to the Circuit Court of Cole County.

SECTION 105.963 - The late filing fee for filing campaign disclosure reports and statements of limited activity are increased from \$10 to \$50 per day not to exceed \$3,000. The executive director is allowed to send notice by other means than registered mail within 7 days of failure to file. Lobbyists required to file expenditure reports, individuals required to file financial

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FISCAL DESCRIPTION (continued)

disclosure reports, and candidates and committees required to file disclosure statements may appeal late fee assessments in the same manner with the commission.

The act allows the commission to collect unpaid fees through garnishment and other means.

SECTION 105.966 - The act removes a provision allowing extra time for investigations when they are assigned to a retired judge and a provision allowing the commission to file a petition to seek extra time.

SECTION 115.364 - Party nominating committees are barred from nominating a disqualified candidate to the office he or she was disqualified from in either the primary or general elections.

SECTION 130.011 - This act redefines committees for the purposes of campaign finance. Political party committees are redefined to only include one congressional district committee for each congressional district in the state, and one state party committee. Legislative and senatorial district committees are abolished. Continuing committees are redefined as political action committees which are all committees other than a candidate committee, political party committee, campaign committee, exploratory committee, or debt service committee and can carry out the same functions as continuing committees under current law.

SECTION 130.021 - Treasurers and deputy treasurers are no longer required to be residents of the county or district in which their committee sits.

Persons shall not form a new committee or serve as a deputy treasurer of a committee until all disclosure reports and statements of limited activity are filed and all fees paid.

SECTION 130.031 - Political action committees shall only receive contributions from individuals, corporations, unions, and federal political action committees. They shall be barred from receiving contributions from all other committees. Candidate committees, political party committees, campaign committees, exploratory committees, political party committees, campaign committees, exploratory committees, and debt service committees shall be allowed to return a contribution to a donor political action committee that is the origin of the contribution. The state house committee and the state senate committee shall be exempt from the prohibited transfers.

All committees are required to file financial disclosure reports electronically beginning January 1, 2011.

FISCAL DESCRIPTION (continued)

Treasurers shall not transfer funds to another committee with the intent to conceal the identity of the source of the funds.

SECTION 130.044 - State senators and representatives and candidates for those offices shall report contributions received during the legislative session exceeding \$500 within 48 hours of receiving the contribution. The same 48 hour reporting requirement is imposed for contributions given to the Governor, all statewide elected officials, and candidates for those offices during legislative session and any time when legislation from the regular legislative session awaits gubernatorial action.

SECTION 130.071 - Currently, candidates who fail to file disclosure reports shall not take office until reports are filed. This act extends that requirement to all reports filed with the commission and fees owed. Currently, those who have not filed disclosure reports shall not file for office. This act also extends that requirement to fees owed.

SECTION 575.021 - The act creates the Class A misdemeanor crime of obstruction of an ethics investigation if one knowingly bribes a person in exchange for withholding information, knowingly accepts such a bribe for withholding the information, knowingly makes a false statement to a member or employee of the Ethics Commission.

SECTIONS 105.485, 105.955, 130.021, 130.026, 130.028, 130.041, 130.046, 130.057, 226.033 - Changes references from "continuing committee" to "political action committee".

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

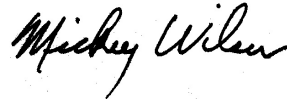
SOURCES OF INFORMATION

Department of Corrections  
Department of Insurance, Financial Institutions and Professional Registration  
Kansas City Board of Election Commission  
Missouri Department of Conservation  
Missouri Ethics Commission  
Office of Administration -  
    Division of General Services/Risk Management  
    Division of Facilities Management, Design and Construction  
    Division of Purchasing  
Office of the Attorney General

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SOURCES OF INFORMATION (continued)

Office of the Governor  
Office of the Lt. Governor  
Office of Prosecution Services  
Office of the State Auditor  
Office of the State Courts Administrator  
Office of the Secretary of State  
Office of the State Treasurer  
Platte County Board of Election Commission  
St. Louis County Board of Election Commission

A handwritten signature in black ink that reads "Mickey Wilson". The signature is written in a cursive, flowing style.

Mickey Wilson, CPA  
Director  
June 3, 2010